

REMARKS

35 U.S.C. § 112

As Applicants amendment of February 24, 2006 was not entered, the response to the previously presented, and still pending, 112 rejection is again addressed herein, along with a response to the asserted issue of new matter due to the proposed amendment.

Claims 1, 4-16 and 18-20 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirements, i.e. a new matter rejection. Specifically, claims 1 and 15 stand rejected for the language "at least one place of each recess or protrusion initiates at least one plane of another protrusion or recess." It is held that there is no *explicit* basis for this language in the original disclosure, as the words "at least" and "or" broadens the claim scope beyond that of the original disclosure.

Claims 1 and 15 have been amended to remove the rejected language and to clearly indicate the related planar relationships of the alternating recesses and protrusions. The structure as recited in the amended claims is clearly shown in Figures 1, 2 and 5 through 8b.

In the Advisory Action Attachment of March 14, 2006, it is stated that the amendments to claims 1 and 15, as again presented herein, raise issues of new matter. Applicants respectfully disagree.

The test for determining compliance with the written description requirement of the first paragraph of 35 U.S.C. § 112 is "whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter, rather than the presence or absence of literal support in the specification of the claim language." *In re Kaslow*, 707 F.2d 1366, 1375, 217 USPQ 1089, 1096 (Fed. Cir. 1983) emphasis added. *See also Vas-Cath, Inc. v. Makurkar*, 19 USPQ2d 1111, 1116 (Fed. Cir. 1991), *See also* MPEP 2163.

In the present application, Figures 1, 2, and 5 through 8b clearly show at least one place of each recess initiating a plane of an adjacent protrusion and at least one place of each protrusion initiating a plane of an adjacent recess as set forth in amended claims 1 and 15 and in new claim 21. As the new claim language is directly shown in multiple original drawings of the application, one skilled in the art would have readily appreciated that, at the time of filing, Applicants had possession of the recited invention. It is requested that this holding be reconsidered and all 112 rejections be reconsidered and withdrawn.

Japan 2000-102925

The withdraw of the rejections of the claims under 35 U.S.C. § 102(b) as being anticipated by Japan 925 (JP 2000-102925) and the rejection of the claims under 35 U.S.C. § 103(a) based on Japan 925 is duly noted and appreciated.

Ishihara

The withdraw of the rejection of the claims under 35 U.S.C. § 103(a) based on Ishihara is duly noted and appreciated.

Lagnier 002

Claims 1, 4-7, 9-11, 13, 15-16 and 18-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lagnier 002 (US 5,783,002) and in view of at least one of Japan 923 and Japan 925. This rejection is respectfully traversed for the following reasons.

Lagnier 002 is cited for disclosing three-dimensional sipes/blades having at least two rows of alternating recesses and protrusions and Japan 923 and Japan 925 are cited for showing three dimensional sipe features having a planar vertices. This combination relies upon the statement of Lagnier 002 describing the curves joining the quadrilateral bases of the recesses/protrusions to the vertices as possibly being “straight-line segments.”

In every instance of discussing the actual vertex of the recesses/protrusions, Lagnier 002 describes the vertices as “domelike” (col 3, lines 14-15), “rounded” (col 3, line 66 – col 4, line 1; col 4, line 23-26) and “concave curved faces” (col 4, line 45-47). Every drawing shows a curved vertex for the protrusions and recesses. Lagnier 002 appears to teach away from forming any type of vertex configuration other than the rounded vertex. To alter the vertex of the features of Lagnier 002 is a destruction of the teachings of Lagnier 002.

In response to this argument, in the Advisory Action Attachment, it is stated that Lagnier teaches quadrilateral bases (four sided bases), and the sides leading from the bases can be “straight line segments”, and thus, the vertex of the protrusions/recesses of Lagnier may be planar as disclosed by Japan 923 or Japan 925.

In the Advisory Action Attachment, it is asserted that Japan 923 and Japan 925 suggest using a planar vertex instead of a rounded vertex for sipes. This is incorrect. First, Japan 923 does not teach alternatives between rounded vertices and planar vertices – every

disclosed embodiment of Japan 923 (Figures 2-15) illustrates a flat vertex. Reference is made to Figure 16 of Japan 923 – however, Japan 923 disclaims this structure as being that of prior art and teaches that the protrusions should not be one sided. This is not teaching that planar and round vertices are known alternatives. Japan 925 also does not teach such alternatives. In the only blade which can create any type of circular feature in a sipe, Figures 13a and 13b, there is no structure that permits the formation of a rounded vertex (please see previously submitted Exhibit 1 of Applicants’ last response – while it shows square openings, the cross-sectional view is relevant for Figure 13 of Japan 925). All the sipes formed by the blade of Japan 925 are planar. Thus neither secondary reference actually teaches what is asserted in the Office Actions and in the Advisory Action Attachment.

Every disclosure of the vertex by Lagnier 002 describes the vertex as being rounded or domelike. While the Advisory Action Attachment characterizes these disclosures as being only “an example” as shown in Figure 3, when every disclosure about and every drawing showing the vertex shows a round or domelike structure, one skilled in the art would readily appreciate that this is the goal of Lagnier 002 – to have a domelike vertex. A review of the noted Figure 3 of Lagnier 002 shows what appears to be almost straight line segments forming the sides of the three-dimensional features – yet the vertices of the features are still rounded. As neither secondary reference actually teaches that planar and rounded vertex are acceptable alternatives in forming three dimensional sipes, there is no known acceptable alternative such that one skilled in the art would select a planar vertex instead of the specifically taught rounded vertices of Lagnier 002. Any motivation to select a planar vertex for the sipes of Lagnier 002 stems solely from hindsight and the forced application of Japan 925 and Japan 923.

Furthermore, if Japan 923 and 925 teach anything relevant to the recited invention and the tread of Lagnier 002, it teaches one skilled in the art that both straight and curved segments of a three dimensional sipe feature does not inherently result in a vertex corresponding to the segment configuration. Thus, the “straight line segments” from the quadrilateral base of Lagnier 002 would not inherently result in a planar vertex. Since such a planar vertex is not inherent with straight sides of a three dimensional sipe feature, one must look to the actual teachings of Lagnier 002. And, as noted above, every disclosure of the vertex of Lagnier 002 discloses a rounded vertex, including that of Figure 3 which suggests straight side segments with rounded vertices. There is no motivation in the art to

teach forming the sipe features of Langier 002 with any other type of vertex – especially as neither Japan 923 or Japan 925 teach that such are known alternatives.

It is requested that this rejection be reconsidered and withdrawn.

Claims 8, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagnier 002 in view of at least one of Japan 923 and Japan 925 and further in view of Heinen (WO 99/48707).

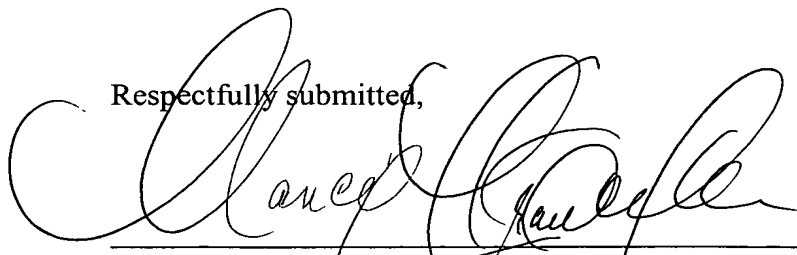
Claim 14 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Lagnier 002 in view of at least one of Japan 923 and Japan 925 and further in view of Lagnier 126 (US 4,994,126).

Both of these rejections rely upon the combination of Lagnier 002 with Japan 923 and Japan 925. As argued above, both of these rejection are against the teachings of the primary reference, and thus fail to establish *prima facie* obviousness.

As the rejected dependant claims incorporate the subject matter of the independent claims, and the above rejections fails to establish *prima facie* obviousness for the indpendent claims, any rejection of the dependent claims based on the modified Lagnier 002 also fails. Applicants do not concede the obviousness of any not specifically argued dependent claim.

In light of this amendment, Applicants believe all of the claims now pending in the subject patent application are allowable. Thus, the Examiner is respectfully requested to allow all pending claims.

Respectfully submitted,



Nancy T. Krawczyk– Reg. No. 38,744
Attorney for Applicants

The Goodyear Tire & Rubber Company
Department 823
1144 East Market Street
Akron, Ohio 44316-0001
Telephone: (330) 796-6366
Facsimile: (330) 796-9018